

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

MATTHEW WILEY,	:	
	:	
PLAINTIFF,	:	
	:	
v.	:	C.A. No.
	:	
	:	
STAR CHRYSLER/JEEP, LLC, NEW	:	
CASTLE INSURANCE, LTD.,	:	
And BLUE CROSS BLUE SHIELD	:	
INSURANCE,	:	
	:	
DEFENDANTS.	:	

COMPLAINT

COMES NOW the plaintiff, by undersigned counsel, and as a cause of action against the above named defendants, hereby alleges as follows:

JURISDICTION

1. This Court has jurisdiction over the subject matter of this action under 29 U.S.C. 1132(e).

PARTIES

2. Plaintiff, Matthew Wiley, is the former employee of Star Chrysler/ Jeep, LLC and participant in the Health Plan.
3. Defendant, Star Chrysler/ Jeep, LLC (hereinafter "Star"), is a Delaware corporation and an employer of 20 or more employees in an industry affecting commerce within the meaning of 29 U.S.C. Section 1002(5), (11) and (12) whose registered agent is located at Young, Conway, Stargatt & Taylor, LLP, 1000 West Street Brandywine Building, 17<sup>th</sup> Floor, Wilmington, DE 19801. Star is also an administrator and the plan sponsor of the Health Plan within the meaning of 29 U.S.C. 1002(16).

4. Defendant, New Castle Insurance, Ltd. is the insurance broker for Star whose registered agent and principal place of business is located at 621 Delaware Street, New Castle, DE 19720.

5. Defendant, Blue Cross Blue Shield of Delaware, is a Delaware corporation whose registered agent is located at 201 West 14<sup>th</sup> Street, Wilmington, DE 19801.

#### COMMON FACTS

6. Plaintiff was a former full-time employee of Star and was employed with Star for approximately one year.

7. On or about November 21, 2005, plaintiff was involved in a motorcycle accident in which he was severely injured.

8. On or about November 30, 2005, Star terminated plaintiff.

9. During his employment with Star, plaintiff received health insurance benefits through Star's health benefit plan which was administered by Blue Cross Blue Shield of Delaware.

10. During plaintiff's employment with Star, he was given an insurance card with identification number XHA101386, account number 120908.

11. Star was identified as the employer on the insurance card.

12. Subsequent to plaintiff's termination, he was entitled to have COBRA benefits extended him within 14 days of his termination of employment.

13. On December 6, 2005, Sandra Keele, Director of Employee Benefits for New Castle Insurance, Ltd. sent a letter to plaintiff notifying him that effective November 30, 2005 his group health coverage would terminate with Star.

14. Plaintiff was also informed that he had 60 days from the later of the date of the December 6, 2005 notice or the date coverage ends to notify New Castle Insurance, Ltd. of his election to continue his insurance coverage.

15. On January 4, 2006, Sandra Keele wrote plaintiff's attorney indicating that plaintiff had inquired into the continuation of healthcare benefits (COBRA) paperwork and she enclosed the COBRA Notification and Election form. The current premiums were also attached to this paperwork.

16. Plaintiff's attorney was instructed to complete the paperwork and send the first month's payment if he elected COBRA.

17. On the notice entitled COBRA Rates it was noted that the monthly cost for an individual was \$326.21.

18. Plaintiff elected to continue healthcare benefits.

19. To date, plaintiff has not been extended COBRA healthcare under the health plan despite his request to continue healthcare coverage.

COUNT I – HEALTH PLAN UNDER ERISA

20. The allegations of Paragraphs 1 through 19 are incorporated by reference as if fully restated.

21. Under terms of 29 U.S.C. Section 1132 (c)(1), and Section 1166(4) the Plan Administrator, or any of them was required to notify the plaintiff of his rights under COBRA provisions of ERISA.

22. Plaintiff selected COBRA health coverage.

23. Plaintiff has been denied participation as former employee under COBRA in a Health Plan by the Plan Administrator of said plan.


WHEREFORE, plaintiff requests that this Court enter judgment against the defendants:

(1) Against Blue Cross Blue Shield for status as plan participant under the healthcare continuation provisions of COBRA for the minimum period of 18 months and any amounts of

healthcare coverage found due and owing as a result of the failure of said plan to extend coverage under their provisions on a timely basis, interests and costs and for reasonable attorneys' fees incurred in this action or the collection or enforcement of any judgment,

(2) Against New Castle and Star as Plan Administrators for amounts proscribed under 29 U.S.C. Section 11329(c)(1) of \$100 per day for failure and refusal to provide an extension of healthcare continuation benefits, along with interest and costs, including reasonable attorneys' fees incurred in connection with this action and in connection with any judgment or proceedings to enforce or collect any judgment, and

(3) For such other or further relief, legal or equitable, as may be just, necessary and appropriate.

  
\_\_\_\_\_  
Joseph J. Rhoades, Esquire (I.D. 2064)  
A. Dale Bowers, Esquire (I.D. 3932)  
1225 King Street, 12th Floor  
Wilmington, Delaware 19801  
302-427-9500  
Attorneys for Plaintiff(s)

DATE: 11/12/07

- 07-728 -

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I. (a) PLAINTIFFS</b>  Matthew Wiley  <b>(b) County of Residence of First Listed Plaintiff</b> _____ (EXCEPT IN U.S. PLAINTIFF CASES)  <b>(c) Attorney's (Firm Name, Address, and Telephone Number)</b> Law Offices of Joseph J. Rhoades 1225 N. King St., P.O. Box 874, Wilm., DE 19899-0874		<b>DEFENDANTS</b>  Star Chrysler/Jeep, LLC, New Castle Insurance, LTD., and Blue Cross County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)  NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.  Attorneys (If Known) _____	
<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)		<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)	
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	Citizen of This State <input type="checkbox"/> 1 <input type="checkbox"/> DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 <input type="checkbox"/> DEF <input type="checkbox"/> 4
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> DEF <input type="checkbox"/> 5
		Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> DEF <input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> DEF <input type="checkbox"/> 6
<b>IV. NATURE OF SUIT</b> (Place an "X" in One Box Only)			
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>V. ORIGIN</b> (Place an "X" in One Box Only)			
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened
<input type="checkbox"/> 5 Transferred from another district (specify) _____		<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
<b>VI. CAUSE OF ACTION</b>			
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>29 U.S.C. Section 1132</u> Brief description of cause: <u>Claim for Health Insurance Benefits.</u>			
<b>VII. REQUESTED IN COMPLAINT:</b>			
<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23		DEMAND \$ _____ Per Court Order	
CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No			
<b>VIII. RELATED CASE(S) IF ANY</b> (See instructions): JUDGE _____ DOCKET NUMBER _____			
DATE <u>11/14/07</u> SIGNATURE OF ATTORNEY OF RECORD <u>Joseph J. Rhoades</u>			
FOR OFFICE USE ONLY			
RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____
		MAG. JUDGE _____	

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 07-728

**ACKNOWLEDGMENT**  
**OF RECEIPT FOR AO FORM 85**

**NOTICE OF AVAILABILITY OF A**  
**UNITED STATES MAGISTRATE JUDGE**  
**TO EXERCISE JURISDICTION**

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

11/14/07  
(Date forms issued)

x [Signature]  
(Signature of Party or their Representative)

x Lauren R. Morrison  
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action